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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------------|---------------------|------------------|
| 10/015,740 | 12/13/2001 | Bernhard Schulze Wartenhorst | 5004273-001US1 | 8869 |

29739 7590 12/30/2002

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[REDACTED] EXAMINER

PRICE, RICHARD THOMAS JR

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3643 | |

DATE MAILED: 12/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|--------------------------|-------------------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/015,740 | WARTENHORST, BERNHARD SCHULZE |
| | Examiner Thomas Price | Art Unit 3643 3644 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 December 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear in claim 3 what the "2" designates.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Zighelboim (5,366,732). Regarding claim 1, Zighelboim discloses a method for milking animals, said method comprising the steps of sequentially stimulating the teats of the animal (col. 3, lines 1-5) to stimulate the udder; and milking the stimulated teats (col. 3, line 18).

3. Regarding claim 2 and the aforesaid discussion on claim 1, Zighelboim discloses the claimed method during which only single teats are being stimulated successively (col. 2, lines 10-20).

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4. Regarding claim 3 and the aforesaid discussion on claim 2, Zighelboim discloses the claimed method during which a phase without any stimulation occurs (col. 3, lines 13-18). Note that washing and drying the teats is not interpreted as a stimulation.
5. Regarding claim 4 and the aforesaid discussion on claim 2, Zighelboim discloses the claimed method during which at the end of a stimulation phase of a teat a stimulation phase of another teat occurs (col. 3, lines 1-20).
6. Regarding claim 5 and the aforesaid discussion on claim 1, Zighelboim discloses the claimed method during which before the sequential stimulation of a single teat, the udder receives a pre-stimulation. Note that the pre-stimulation is interpreted as the washing and drying of the teats.
7. Regarding claims 6-8 and the aforesaid discussion on claim 5, Zighelboim discloses the claimed method during which the intensity of the sequential stimulation decreases both continuously and discontinuously during the milking procedure. Note that after the stimulation occurs, which is the antimicrobial wash, it is inherently understood that the stimulation decreases continuously after this wash since there is no further stimulation. If further treatment is provided to the cow, the intensity would decrease discontinuously.
8. Regarding claim 9 and the aforesaid discussion on claim 5, Zighelboim discloses the claimed method during which the milk flow is measured (col. 4, lines 1-36) and to change the intensity of the stimulation in accordance to the milk flow.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 703-308-2694. The examiner can normally be reached on M-Th & every other F, 8:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Thomas Price
Primary Examiner
3643

July 29, 2002